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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/647,521

08/25/2003

Gerald Richter

10541-1832

2280

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7590

07/17/2006

VISTEON

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EXAMINER

CIRIC, LJILJANA V

ART UNIT

PAPER NUMBER

3753

DATE MAILED: 07/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/647,521

Applicant(s)

RICHTER ET AL.

Examiner

Ljiljana (Lil) V. Ciric 

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2006 and 10 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 9, 10 and 13-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This Office action is in response to the replies filed on March 31, 2006 and on May 10, 2006.
2. Claims 1 through 17 remain in the application. Of these, claims 1 through 8, 11, and 12 have all been amended, either directly or indirectly. The remaining claims (i.e., claims 9, 10, and 13 through 17) remain withdrawn with traverse.

Response to Arguments

3. Applicant's arguments filed on March 31, 2006 have been fully considered but they are not persuasive.

Applicant argues that, unlike the separation wall of the instant claimed invention as recited in the amended claims, the separation wall of Fehr (air deflector 14) extends away from, and not towards, the output (air discharges 2, 4), and that therefor "Fehr fails to disclose all of the elements in newly amended claim.1". In response to the above argument, the examiner hereby traverses the same by noting that claim 1 as amended recites that the separation wall extends "towards *the output in the space between the evaporator core and the heater core*", but (a) there is no proper antecedent basis in the claims for an output *in the space between the evaporator core and the heater core* and (b) as noted in greater detail below, Fehr *does* show the separation wall or air deflector 14 as extending along the length of the heater core 11 towards an output *in the space between the evaporator core 1 and the heater core 11*, the output in that space being readable on the cold air output to the bypass passage 12 formed at the junction of air flap 13 and the separation wall or fixed air deflector 14 as shown in Figure 1.

Applicant furthermore notes that all of claims 2 through 8, 11, and 12 are dependent on claim 1 and are therefore patentable for at least the same reason as given via the abovementioned arguments with respect to claim 1. In response, the examiner respectfully notes that claim 8 as amended is an independent claim from which claims 11 and 12 depend. Thus, the features relied on (i.e., the separation wall

Art Unit: 3753

extending along the length of the heater towards the output in the space between the evaporator core and the heater core) by applicant for the patentability of claim 8 and claims 11 and 12 depending therefrom are not recited in these rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Additionally, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that the mixing area defined by the separation wall for the hot air generated by the heater core and for the cold air generated by the evaporator core must be downstream from both the heater core and the condenser) are *not* recited in the rejected claims. The rejected claims do NOT recite nor otherwise require that cold air generated by the evaporator core and hot air generated by the heater core be mixed in a mixing channel defined by the separation wall.; the rejected claims merely recite an intended use for the mixing channel (i.e., that the mixing channel may be used for mixing cold air and hot air which may have been generated anywhere as broadly interpreted as required; the hot air, may for example, be hot ambient air drawn into the housing whereas the cold air may be cold air generated by the evaporator core OR the cold air may be cold ambient air drawn into the housing whereas the hot air may be hot air generated by the heater core OR the cold air may be cold air generated by the evaporator core whereas the hot air may be hot air generated by the heater core). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Furthermore, it is hereby noted by the examiner that a claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. See *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987). And, "expressions relating

Art Unit: 3753

the apparatus to contents thereof during an intended operation are of no significance in determining patentability of the apparatus claim.” See *Ex parte Thibault*, 164 USPQ 666, 667 (Bd. App. 1969).

Applicant's arguments thus fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant's arguments thus also do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

Election/Restrictions

4. This application contains claims 9, 10, and 13 through 17 drawn to an invention nonelected with traverse in the reply filed on October 6, 2005. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Drawings

5. The drawings were received on March 31, 2006. These drawings are hereby approved.

Specification

6. Receipt and entry of the amended abstract filed on March 31, 2006 is hereby acknowledged.

7. The amended abstract of the disclosure is objected to because it does not avoid using phrases which can be implied (i.e., “is described”). Note that it would be fully acceptable based on standard practice to have the first sentence of the abstract NOT be a complete sentence (i.e., delete “is described”). Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3753

9. Claims 1 through 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular, the newly added limitation “towards the output” in the limitations “towards *the output in the space between the evaporator core and the heater core*” renders unclear the scope of protection sought by the claims. More particularly, there is no proper antecedent basis for the limitation “the output *in the space between the evaporator core and the heater core*” as now recited in the claims. Furthermore, it is not clear whether these limitations are intended to refer to an (additional?) output located in the space between the evaporator and the heater core or to refer to the previously recited output opening for output air in the housing.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. As best can be understood in view of the indefiniteness of claims 1 through 7, claims 1 through 8, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Fehr (previously of record).

Fehr discloses a vehicle temperature system essentially as claimed, including, for example: a housing 25 having an intake opening duct (not shown; see column 6, lines 4-8) and an output opening readable on discharge opening 2 and/or 4 and/or 6; an evaporator core 1; a heater core 11 disposed in the housing 25 downstream from the evaporator core 1; a separation wall or fixed air deflector 14 having a first end and a second end, the first end being attached to a first portion of the heater core 11 as shown in Figure 1 and extending along the length of the heater core 11 in the space between the evaporator core 1 and the heater core 11 as also shown in Figure 1; a blower 20 disposed in the housing 25 upstream from

Art Unit: 3753

the evaporator core 1; and, a drain area and corresponding drain hole 15 formed through the housing 25 adjacent to the evaporator core 1 as shown in Figure 1. The evaporator core 1 and the heater core 11 are also disclosed as being in a side by side spatial relationship as recited in claim 3 of the instant application. The separation wall 14 also isolates a cold air portion and a hot air portion of the space between the evaporator core 1 and the heater core 11, with the cold air portion 21 being adjacent to the evaporator core 1 and the hot air portion being adjacent to the heater core 11. The separation wall or air deflector 14 extends along the length of the heater core 11 towards the output in the space between the evaporator core 1 and the heater core 11, the output in that space being readable on the cold air output to the bypass passage 12 formed at the junction of air flap 13 and the separation wall or fixed air deflector 14 as shown in Figure 1. The separation wall or fixed air deflector 14 defines a mixing channel or area (in conjunction with the temperature mixing air flaps 13 and 17 and the housing) for mixing, for example, cold air generated by the evaporator core 1 and hot ambient air drawn into the housing via fan or blower 20.

The reference thus reads on the claims.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 3753

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ljiljana (Lil) V. Ciric whose telephone number is 571-272-4909. The examiner can normally be reached on Mondays through Fridays from 10:00 a.m. to 6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel, can be reached at 571-272-4929.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ljiljana (Lil) V. Ciric
Primary Examiner
Art Unit 3753



Approved
ERC
7-7-06

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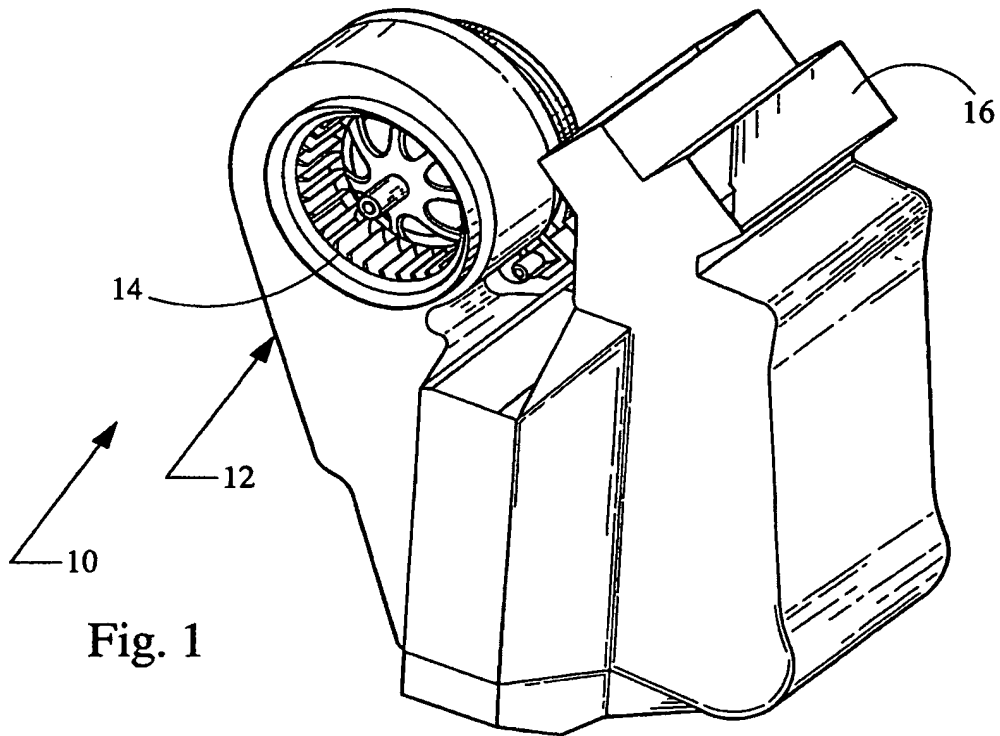


Fig. 1

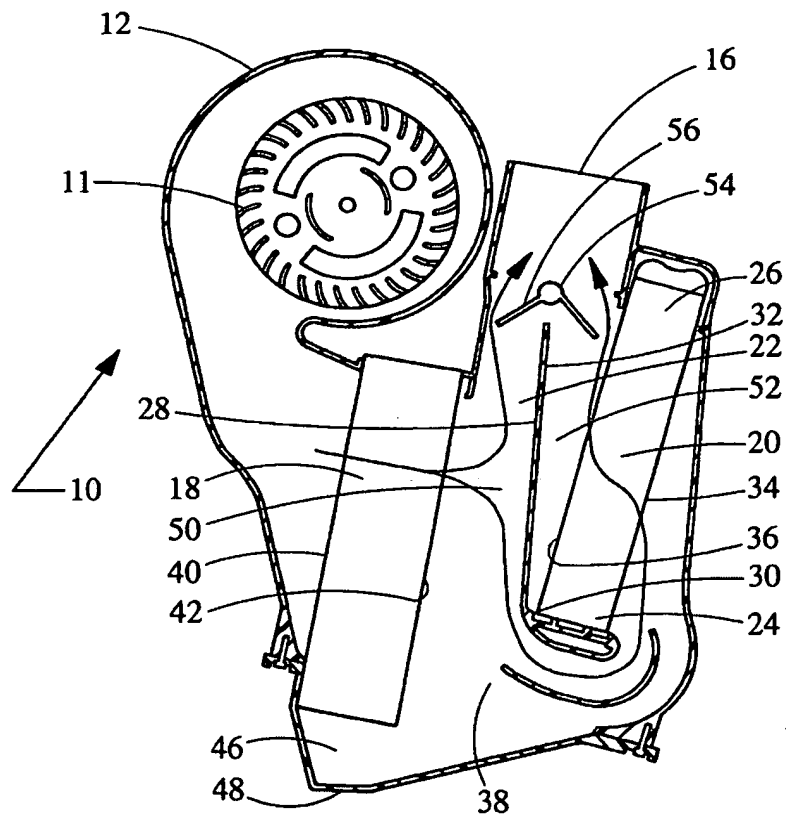


Fig. 2